

SENATE BILL REPORT

SB 5788

As Passed Senate, February 8, 2022

Title: An act relating to guardianship of minors.

Brief Description: Concerning guardianship of minors.

Sponsors: Senators Pedersen, Padden, Dhingra and Lovick.

Brief History:

Committee Activity: Law & Justice: 1/25/22, 1/27/22 [DP].

Floor Activity: Passed Senate: 2/8/22, 49-0.

Brief Summary of Bill

- Makes changes to laws related to a minor guardianship.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford, Kuderer, Pedersen, Salomon and Wagoner.

Staff: Tim Ford (786-7423)

Background: In 2019, the Legislature adopted the Uniform Guardianship, Conservatorship, and other Protective Arrangements Act (UGA). It repealed existing laws on state guardianship and replaced them with the UGA. It also repealed existing law on nonparental actions for child custody.

Basis for Appointment of a Guardian for a Minor. A person becomes a guardian for a minor only on appointment by the court. A court may appoint a guardian for a minor if the

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court finds the appointment is in the minor's best interest, and:

- the parents consent, after being fully informed of the nature and consequences of guardianship;
- all parental rights have been terminated; or
- the court finds by clear and convincing evidence the parents are unwilling or unable to exercise their parental rights and a visitor must ascertain whether the parents consent to the appointment of a guardian for a minor.

Summary of Bill: The following provisions of law related to a minor guardianship are changed:

- an emergency guardian may be appointed on motion when a petition for a minor guardianship is filed;
- a juvenile court shall have concurrent jurisdiction with a probate court over minor guardianship proceedings;
- minor guardianship cases are exempt from court rules requiring attendance at parenting seminars;
- cross references to repealed provisions of non-parental actions for child custody are corrected;
- the definition of a "guardianship ad litem" means a person appointed to inform the court about or represent the needs and best interests of a minor;
- the parties, and not the court, are responsible for confirming the accuracy of required financial disclosures;
- the release of required investigative information is applied for all proposed guardians and all adult members of any proposed guardian's household; and
- the court shall appoint a person nominated as guardian by a parent of the minor in a probated will or other record unless the court finds the appointment is contrary to the best interest of the minor; and any other record must be a declaration or other sworn document and may include a power of attorney or other sworn statement as to the care, custody, or control of the minor child.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The minor guardianship has been in effect just over a year and there are some improvements that stakeholders recommend that everyone can support. It clarifies several areas of law. It provides relief for users of the law and the judges who implement it. The new guardianship law has helped youth to stabilize their lives. The emergency guardianship component is important for seeking an order during a crisis situation. We use this tool for minors whose immediate health and safety is

at risk. Courts have been hesitant to order an emergency guardianship if someone with legal authority is willing to take the minor even if they present a significant safety concern to the youth. This bill would require courts to analyze a person's ability to prevent substantial harm to the minor's health, safety, or welfare. A motion for the appointment of an emergency guardianship can also be filed with a regular guardianship petition instead of requiring two separate petitions to be filed.

Persons Testifying: PRO: Senator Jamie Pedersen, Prime Sponsor; Chach Duarte White, Legal Counsel for Youth and Children (LCYC); Karen Pillar, TeamChild; Douglas Becker, Domestic Relations Attorneys of Washington (DRAW); Judge Rachelle Anderson, Superior Court Judges' Association.

Persons Signed In To Testify But Not Testifying: No one.